

REMARKS

Applicants reply to the Final Office Action dated April 25, 2008 within two months. Thus, Applicants request an Advisory Action, if necessary. Claims 1-13 were pending in the application and the Examiner rejects claims 1-13. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

Claims Rejected under 35 U.S.C. § 112

The Examiner rejects claims 1-13 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner notes that the limitation “the investment” recited in claims 1, 11, and 12 lack antecedent basis. Applicants amend independent claims 1, 11, and 12 accordingly. Claims 2-10 and 13, which variously depend from independent claims 1 and 12, are accordingly cured by the amendments to independent claims 1, 11, and 12.

Claims Rejected under 35 U.S.C. § 103

The Examiner rejects claims 1-13 under 35 U.S.C. § 103(a) as being unpatentable over Wallace et al., U.S. Patent No. 6,968,317 (“Wallace”) in view of Weiss et al., U.S. Patent No. 6,354,490 (“Weiss”) and in further view of T. Rowe Price Investment Services, Inc. (“Price”). Applicants respectfully traverse this rejection.

Wallace generally discloses a system that allows investors to open an online brokerage account. Specifically, the Wallace system provides an online interface, wherein an investor may enter information that is used to apply for a restricted account. The restricted account permits the investor to perform limited activities online such as, for example, research securities and establish watch lists to track the performance of specific securities. However, the restricted account of Wallace prevents the investor from “performing certain activities, such as trading securities, funding the account, or obtaining real time quotations of securities” (col. 10, lines 13-17, emphasis added). The account remains restricted until the application is reviewed and approved. Wallace discloses a series of additional steps in various embodiments that must be completed prior to removing the restriction from the investor’s account. Only then, may the investor fund the account and engage in trading activities.

Weiss discloses a financial system that integrates a number of different financial accounts into a single account. A user of the Weiss system may establish a primary account and define a

number of sub-accounts to be included within the primary account. The Weiss system provides an interface, wherein a user may step through the account creation process, select desired sub-accounts, and later interact with the system to move funds between the various sub-accounts. Weiss further discloses that a user may establish one or more securities accounts. The Weiss system requires a licensed bank employee (i.e., a person) to open an account at a scheduled time or to arrange a call-back to schedule a time to open the account (i.e., not a real-time event). According to Weiss, "Specifically, the system displays a securities work window that allows the user to enter an appointment date and time or ask for a call back" (emphasis added) (Col. 17, lines 36-40). "The reason for this is that typically information to building the securities component must be handled by a licensed bank employee" (emphasis added) (Col. 17, lines 40-42). "If an appointment is made, then the system builds a securities confirm message and the system returns to the statement building screen" (Col. 17, lines 42-44).

The Examiner cites Price as disclosing "opening a brokerage account in which allows same day trading after an account is set up...based on an established relationship, T. Rowe teaches trading via a phone representative the same day the account is opened. Therefore T. Rowe teaches granting real-time access to at least one buy sell or trade prior to receiving payment from said applicant" (page 5, paragraph 2). Applicants respectfully disagree.

First, **Applicants assert that Price does not qualify as prior art against the presently claimed invention.** Applicants note that the Examiner has not provided a publication date for the Price reference, therefore, Price is not a proper prior art reference under the rules of the MPEP. The Examiner has provided a printout of a Frequently Asked Questions (FAQ) web page from the T. Rowe Price web site. The FAQ discloses that a customer with an established relationship with the firm may "be able to trade with a phone representative the same day your account is established" ("Trading With Your Account"). Applicants note that, according to the MPEP, a printed publication must be made available to the public before the owner's effective filing date.

"Any printed publication or activity dated prior to an applicant's or patent owner's effective filing date, or any domestic patent of prior filing date, which is in its disclosure pertinent to the claimed invention, is available for use by the examiner as a reference, either basic or auxiliary, in the rejection of the claims of the application or patent under reexamination" (MPEP 715).

The web page printout does include a copyright notice (“Copyright 2001, T. Rowe Price Investment Services Inc.”); however, **Applicants note that a copyright notice is not indicative of when the FAQ of Price was specifically disclosed.** Importantly, Applicants priority date is February 13, 2001, so if the vague 2001 date is after Applicant’s priority date, then it would not qualify as a prior art reference.

Moreover, additions, subtractions, and modifications are routinely made to web sites without updating the copyright notice, so the new features may not even be able to claim the 2001 date. Therefore, the copyright notice does not provide evidence as to when the cited section of the Price reference was made public. Accordingly, in accordance with the below recitations from the MPEP and 37 CFR, the Price reference cannot be relied on as prior art.

“the date when the document was retrieved from the electronic media in square brackets following after the **date of publication**, e.g., [retrieved on March 4, 1998], [retrieved on 1998-03-04]. The four-digit year must always be given” (MPEP 707.05(e), emphasis added)

“**If printed publications are cited**, the author (if any), title, **date**, pages or plates, and place of publication, or place where a copy can be found, will be given” (37 CFR 1.104(d)(1), emphasis added)

Second, Price discloses that trades may be made on the same day that an account is opened via telephone with a phone representative. Applicants assert that “same day” is not synonymous with “real-time” as presently claimed, and that the term “real-time” encompasses the term “immediate.” Therefore, providing “same day” trading, as disclosed by Price, is significantly different than providing “real-time” or immediate trading, as disclosed by the presently claimed invention.

Moreover, Price discloses that a customer may “be able to trade **with a phone representative** the same day your account is established” (“Trading With Your Account”). This is contrary to the presently claimed invention that cites the limitation of “granting, **through a solely automated process**, real-time access to at least one of: buy, sell, and trade within said brokerage account.”

Wallace, Weiss, and Price each disclose systems and methods for establishing investment accounts. It is clear that Wallace and Weiss require a substantial amount of time and Price requires an amount of time (up to 24 hours) between applying for a brokerage account and funding the brokerage account to begin trading. **This is contrary to the presently claimed**

invention, which enables an investor to apply for a brokerage account, be approved for a line of credit to immediately fund the brokerage account, and begin trading activity, all in real time and without the use of a phone representative. As such, neither Wallace, Weiss, Price, nor any combination thereof, disclose or contemplate at least, "based upon said establishing said brokerage account, granting, through a solely automated process, real-time access to at least one of: buy, sell, and trade within said brokerage account prior to receiving payment from said applicant for said investment" and "facilitating, through said solely automated process, said at least one of buy, sell, and trade within said brokerage account using said line of credit and prior to receiving said payment from said applicant for said investment," as similarly recited by independent claims 1, 11, and 12.

Applicants assert that claims 2-10 and 13 variously depend from independent claims 1 and 12, so claims 2-10 and 13 are differentiated from the cited references for at least the same reasons as set forth above, as well as in view of their own respective features.

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814, including extension fees, if necessary.

Respectfully submitted,

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By: 

Howard I. Sobelman
Reg. No. 39,038

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6228
Fax: 602-382-6070
Email: hsobelman@swlaw.com